

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 40

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER A. FRANASZEK,
CHRISTOS J. GEORGIOU,
ROBERT F. LUSCH,
JOSEPH M. MOSLEY,
and
HOWARD OLNOWICH

Appeal No. 1997-3211
Application No. 08/457,789

ON BRIEF

Before KRASS, JERRY SMITH, and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 34-44. Claims 1-33 have been canceled.

The disclosed invention relates to a switching network which permits the interconnection of multiple processors or

other functional elements over a common and small set of
point-to-

point-interconnecting wires. Appellants assert at pages 5 and
6 of the specification that the switching network performs
connection control and data transfer without requiring
synchronized clocking signals, and further resolves connection
conflicts instantaneously on an asynchronous basis.

Claim 34 is illustrative of the invention and reads as
follows:

34. A switching network comprising:

a plurality of bufferless switching apparatuses
cascaded into a plurality of stages, said switching
apparatuses each including a plurality of switch
inputs and a plurality of switch outputs, of the switch
outputs included on each of said switching apparatuses
each coupled to a different one of the switching
apparatuses via a switch input of said different one
of the switching apparatuses, switch outputs of last
stage switching apparatuses each comprising a network
output port and switch inputs of first stage switching
apparatuses each comprising a network input port;

the network output ports each coupled to a network
input port through one of a plurality of nodes, each of
said nodes comprising means for receiving a data message
from a coupled network output port and means for sending
a data message to a coupled network input port, said data
message to a coupled network input port including a path
connection request; and

said switching apparatuses each further including;

connection means for establishing a point-to-point communication path between any one of the network input ports and any one of the network output ports in response to said connection request received at said any one of the network input ports, said communication path for transmitting a data message received at said any one of the network input ports to said any one of the network output ports, said connection means including asynchronous connection means for establishing asynchronously a plurality of simultaneously active point-to-point communication paths between a plurality of network input ports and a plurality of network output ports in response to a plurality of connection requests received separately or simultaneously at said plurality of network input ports, said simultaneously active communication paths for transmitting concurrently a plurality of data messages received separately or simultaneously at said plurality of network input ports to said plurality of network output ports.

The Examiner relies on the following prior art:

Farrell et al. (Farrell), "Asynchronous Digital Video Switching System," 33 IBM Technical Disclosure Bulletin, no. 5, 227-33 (October 1990).

Claims 34-36, 43, and 44 stand finally rejected under 35 U.S.C. § 102(a) as being anticipated by Farrell. Claims 37-42 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Farrell.

Rather than reiterate the arguments of Appellants and the

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Examiner, reference is made to the Briefs¹ and Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner, and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Brief along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the Affidavit under 37 CFR § 1.131 filed August 30, 1995, by Appellants is effective to overcome the Farrell reference since it establishes conception and reduction to practice of the invention before the effective date of the

¹The Appeal Brief was filed October 4, 1996. In response to the Examiner's Answer dated December 16, 1996, a Reply Brief was filed February 18, 1997, which was acknowledged and entered by the Examiner without further comment on April 18, 1997.

reference.² Since the prior art rejection based on Farrell is the only outstanding rejection on appeal, we must reverse.³

The Examiner asserts (Answer, page 6), that, since Exhibit A fails to show facts of a working model or test results, evidence of an actual reduction to practice has not been established. We do not agree. The Examiner's requirement of a working model is not a reasonable requirement when the invention in question is an electrical circuit. In our view, the circuit and timing diagrams set forth in Figures 3-9 of Exhibit A, establish a clear showing of an actual reduction to practice of the conceived switching apparatus.

The Examiner (Answer, page 7) has further asserted a lack of showing of a correlation between the features of the appealed claims and the description in Exhibit A, contending that such a showing is a prerequisite for establishing

²This Affidavit includes, as an attachment, an IBM Invention Disclosure Document designated Exhibit A.

³Because we find that the § 131 Affidavit was sufficient to show reduction to practice of the claimed invention prior to the effective date of the Farrell reference, arguments as to the merits of the Examiner's rejection of claims 34-36, 43, and 44 under 35 U.S.C. § 102(a) and claims 37-42 under 35 U.S.C. § 103 are rendered moot.

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conception and/or reduction to practice. While the record in this case establishes that Appellants have in fact supplied a clear showing of such correspondence (Reply Brief, page 6), we find the Examiner's assertion to be misplaced. Appellants' presentation of facts relating to a showing of reduction to practice of the claimed invention shifts the burden to the Examiner to establish a lack of correspondence between the claimed elements and the description in the supplied Exhibit A. In our view, the Examiner's broad unsupported allegation of lack of correspondence falls well short of meeting this burden.

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In conclusion, since, Appellants' Affidavit under 37 CFR
§ 1.131 is sufficient to antedate the Farrell reference, the
Examiner's decision to reject claims 34-44 is reversed.

REVERSED

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ERROL A. KRASS))
Administrative Patent Judge)	
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)	BOARD OF PATENT
JERRY SMITH)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
)	
JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	

JFR:hh

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